

**TERMINAL DISCLAIMER TO OBTAIN A DOUBLE  
PATENTING REJECTION OVER A "PRIOR" PATENT**

Docket No. 02-479-C

In Re Application of: Belardinelli

Application No.: 10/629,368

Filed: July 29, 2003

For: Myocardial Perfusion Imaging Method

The owner, CV Therapeutics, Inc. of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term of prior patent No. 6,403,567 (Zablocki '567) as the term of Zablocki '567 is defined in 35 U.S.C. 154 and 173, and as the term of Zablocki '567 is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and Zablocki '567 are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of Zablocki '567, "as the term of any said prior patent is presently shortened by any terminal disclaimer," in the event that said Zablocki '567 later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

In addition, the owner, CV Therapeutics, Inc. of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term of prior patent No. 6,642,210 (Zablocki '210) as the term of Zablocki '210 is defined in 35 U.S.C. 154 and 173, and as the term of Zablocki '210 is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and Zablocki '210 are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of Zablocki '210, "as the term of any said prior patent is presently shortened by any terminal disclaimer," in the event that said Zablocki '210 later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

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In addition, the owner, CV Therapeutics, Inc. of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term of prior patent No. 7,144,872 (Zablocki '872) as the term of Zablocki '872 is defined in 35 U.S.C. 154 and 173, and as the term of Zablocki '872 is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and Zablocki '872 are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of Zablocki '872, "as the term of any said prior patent is presently shortened by any terminal disclaimer," in the event that said Zablocki '872 later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

In addition, the owner, CV Therapeutics, Inc. of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term of prior patent No. 7,183,264 (Zablocki '264) as the term of Zablocki '264 is defined in 35 U.S.C. 154 and 173, and as the term of Zablocki '264 is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and Zablocki '264 are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of Zablocki '264, "as the term of any said prior patent is presently shortened by any terminal disclaimer," in the event that said Zablocki '264 later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization. Further, under 37 CFR 3.73(b), the undersigned certifies that CV Therapeutics, Inc. is the assignee of record of the entire interest in this application, by virtue of an assignment from the inventor(s) of the application, recorded in the U.S. Patent and Trademark office at Reel 014697, Frame 0904.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

<b>TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A "PRIOR" PATENT</b>		Docket No. 02-479-C
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Signed: /A. Blair Hughes/		October 23, 2008
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A. Blair Hughes Reg. No. 32,901 McDonnell Boehnen Hulbert & Berghoff LLP 300 S. Wacker Drive Chicago, IL 60606 Telephone: (312) 913-2123		Date
<input checked="" type="checkbox"/> Please charge the terminal disclaimer fee (\$140.00) under 37 CFR 1.20(d) to Deposit Acct. 132490.		